

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2002-0611-011-022

vs.

Karen Muir Brissette, L.P.N., Lic. No. 026434
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated June 25, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Karen Muir Brissette, L.P.N. (hereinafter "respondent"), which would subject respondent's licensed practical nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b). The Motion for Summary Suspension was denied on July 17, 2002.

The Board issued a Notice of Hearing dated July 17, 2002, scheduling a hearing for October 16, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent. Dept. Exh. 1.

The hearing took place on October 16, 2002 in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was present during the hearing and was not represented by counsel. Tr. p. 2.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 026434 on January 10, 1997. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 2D.
2. At all relevant times, respondent was employed as a licensed practical nurse at Tandem Healthcare, Southington, Connecticut. Dept. Exh. 2A.
3. On January 17, 2001, the Board ordered a Consent Order in Petition Number 2000-1003-011-039 ("the Consent Order") that placed respondent's licensed practical nurse license on probation for a period of four years. Such disciplinary action was based on respondent's admitted diversions of Vicodin, Darvocet and Percocet. Dept. Exh. 2B.
4. The Consent Order specifically provided that respondent submit to observed random urine screens for drugs and alcohol, and that all screens shall be negative for the presence of drugs and alcohol. Dept. Exh. 2B.
5. On May 28, 2002, respondent tested positive for morphine. Dept. Exh. 2A; Dept. Exh. 3. Dept. Exh. 4.
6. With the exception of the May 28, 2002 positive screen result, respondent has been actively pursuing her recovery and continues to do so. Tr. pp. 19-27.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Karen Muir Brissette held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* § 4-177(a) and (b), and § 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as § 19a-9-1 through § 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat. § 4-182(c)*.

The Department bears the burden of proof by a preponderance of the evidence in this matter.

Through her testimony and documentary evidence, respondent denied that she had violated the terms of her Consent Order.

PARAGRAPH 2 of the Statement of Charges alleges that at all relevant times, respondent was employed as a licensed practical nurse at Tandem Healthcare, Southington, Connecticut.

PARAGRAPH 3 of the Statement of Charges alleges that on January 17, 2001, the Board ordered a Consent Order in Petition Number 2000-1003-011-039 that placed respondent's licensed practical nurse license on probation for a period of four years, and that such disciplinary action was based upon respondent's admitted diversions of Vicodin, Darvocet and Percocet.

PARAGRAPH 4 of the Statement of Charges alleges that the Consent Order specifically provided that respondent submit to observed random urine screens for drugs and alcohol, and that all screens shall be negative for the presence of drugs and alcohol.

PARAGRAPH 5 of the Statement of Charges alleges that on May 28, 2002, respondent tested positive for morphine.

Respondent admits that the test reported the presence of morphine and acknowledges that the test was a result of her sample; however, she denies having taken any morphine and claims that the positive test result must have been caused by her ingestion of an "everything bagel" that must have also included poppy seeds.

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4 and 5 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board concludes that said conduct violates the terms of probation as set forth in the Consent Order dated January 21, 2001. Therefore, respondent's licensed practical nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat. § 19a-17*.

Order

Pursuant to its authority under *Conn. Gen. Stat.* § 19a-17 and § 20-99, the Board of Examiners for Nursing hereby orders the following:

1. That for Paragraphs 3, 4 and 5 of the Statement of Charges, the probation of respondent's licensed practical nurse license number 026434, as ordered in the January 17, 2001 Consent Order in Petition Number 2000-1003-011-039, is hereby extended for one additional year, until February 1, 2006. All terms in the Consent Order shall remain in effect at all times.
2. Any deviation from the terms of probation, without prior written approval by the Board, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board shall not be a waiver or preclude the Board's right to take subsequent action. The Board shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Office of Practitioner Licensing and Certification of the Department of Public Health or the Board).
3. This Memorandum of Decision becomes effective on the date signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Karen Muir Brissette, L.P.N., and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 2nd day of April 2003.

BOARD OF EXAMINERS FOR NURSING

By

